

ASSEMBLY BILL

No. 1359

Introduced by Assembly Member Huffman

February 27, 2009

An act to amend Sections 1202a, 3600, and 3700.5 of, and to repeal Sections 3601 and 3602 of, the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1359, as introduced, Huffman. Death penalty prisoners.

Existing law requires a male defendant sentenced to death to be taken to the warden of the San Quentin State Prison. Existing law also provides that a condemned inmate may be housed at the California Medical Facility for medical or mental health treatment and may be housed at the California State Prison, Sacramento, for commission of specified offenses while in prison, and that in either case, he shall be subject to similar privileges and classifications as would be applied to him if he were housed at San Quentin State Prison.

This bill would make the above provisions applicable to both male and female defendants sentenced to death. The bill would also provide that a condemned inmate shall be housed in any state prison that contains level 4 security or is a condemned facility subject to similar privileges and classifications as would be applied to him or her if he or she were housed at San Quentin State Prison, as specified.

The bill would also delete related provisions requiring female persons sentenced to death to be delivered to the warden of the Central California Women's Facility.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1202a of the Penal Code is amended to read:

1202a. (a) If the judgment is for imprisonment in the state prison the judgment shall direct that the defendant be delivered into the custody of the ~~Director~~ *Secretary of the Department of Corrections and Rehabilitation* at the state prison or institution designated by the ~~Director of Corrections~~ *secretary* as the place for the reception of persons convicted of felonies, except where the judgment is for death in which case the defendant shall be ~~taken to housed in a prison that contains level four security, or is a condemned facility, designated by the warden of the California State Prison at San Quentin~~ *Secretary of the Department of Corrections and Rehabilitation.*

Unless a different place or places are so designated by the ~~Director~~ *Secretary of the Department of Corrections and Rehabilitation*, the judgment shall direct that the defendant be delivered into the custody of the ~~Director of Corrections~~ *secretary* at the California State Prison at San Quentin. The ~~Director of Corrections~~ *secretary* shall designate a place or places for the reception of persons convicted of felonies by order, which order or orders shall be served by registered mail, return receipt requested, upon each judge of each superior court in the state. The ~~Director of Corrections~~ *secretary* may change the place or places of commitment by the issuance of a new order. Nothing contained in this section affects any provision of Section 3400.

(b) When a condemned inmate is housed in a level four prison pursuant to subdivision (a) the following shall apply:

(1) Local procedures relating to privileges and classification procedures provided to condemned inmates at San Quentin State Prison shall be similarly instituted at any level four prison for condemned inmates, housed at that prison. Those classification procedures shall include the right to review the classification no less than every 90 days and the opportunity to petition for a return to San Quentin State Prison.

(2) Similar attorney-client access procedures that are afforded to condemned inmates housed at San Quentin State Prison shall be afforded to condemned inmates housed in any level four prison.

Attorney-client access for condemned inmates housed at an

1 *institution for medical or mental health treatment shall be*
2 *commensurate with the institution's visiting procedures and*
3 *appropriate treatment protocols.*

4 (3) *A condemned inmate housed in a level four prison pursuant*
5 *to subdivision (a) shall be returned to San Quentin State Prison*
6 *at least 60 days prior to his or her scheduled date of execution.*

7 SEC. 2. Section 3600 of the Penal Code is amended to read:

8 3600. (a) Every ~~male~~ person, upon whom has been imposed
9 the judgment of death, shall be delivered to the warden of the
10 California state prison designated by the department for the
11 execution of the death penalty, there to be kept until the execution
12 of the judgment, except as provided in subdivision (b).

13 (b) Notwithstanding any other provision of law:

14 (1) A condemned inmate who, while in prison, commits any of
15 the following offenses, or who, as a member of a gang or disruptive
16 group, orders others to commit any of these offenses, may,
17 following disciplinary sanctions and classification actions at San
18 Quentin State Prison, pursuant to regulations established by the
19 Department of Corrections *and Rehabilitation*, be housed in secure
20 condemned housing designated by the ~~Director~~ *Secretary of the*
21 *Department of Corrections and Rehabilitation*, at the California
22 State Prison, Sacramento:

23 (A) Homicide.

24 (B) Assault with a weapon or with physical force capable of
25 causing serious or mortal injury.

26 (C) Escape with force or attempted escape with force.

27 (D) Repeated serious rules violations that substantially threaten
28 safety or security.

29 (2) The condemned housing program at California State Prison,
30 Sacramento, shall be fully operational prior to the transfer of any
31 condemned inmate.

32 (3) Specialized training protocols for supervising condemned
33 inmates shall be provided to those line staff and supervisors at the
34 California State Prison, Sacramento, who supervise condemned
35 inmates on a regular basis.

36 (4) An inmate whose medical or mental health needs are so
37 critical as to endanger the inmate or others may, pursuant to
38 regulations established by the Department of Corrections *and*
39 *Rehabilitation*, be housed at the California Medical Facility or
40 other appropriate institution for medical or mental health treatment.

1 The inmate shall be returned to the institution from which the
2 inmate was transferred when the condition has been adequately
3 treated or is in remission.

4 (c) When housed pursuant to subdivision (b) the following shall
5 apply:

6 (1) Those local procedures relating to privileges and
7 classification procedures provided to Grade B condemned inmates
8 at San Quentin State Prison shall be similarly instituted at
9 California State Prison, Sacramento, for condemned inmates
10 housed pursuant to paragraph (1) of subdivision (b) of Section
11 3600. Those classification procedures shall include the right to the
12 review of a classification no less than every 90 days and the
13 opportunity to petition for a return to San Quentin State Prison.

14 (2) Similar attorney-client access procedures that are afforded
15 to condemned inmates housed at San Quentin State Prison shall
16 be afforded to condemned inmates housed in secure condemned
17 housing designated by the ~~Director~~ *Secretary of the Department*
18 *of Corrections and Rehabilitation*, at the California State Prison,
19 Sacramento. Attorney-client access for condemned inmates housed
20 at an institution for medical or mental health treatment shall be
21 commensurate with the institution's visiting procedures and
22 appropriate treatment protocols.

23 (3) A condemned inmate housed in secure condemned housing
24 pursuant to subdivision (b) shall be returned to San Quentin State
25 Prison at least 60 days prior to his scheduled date of execution.

26 (4) No more than 15 condemned inmates may be rehoused
27 pursuant to paragraph (1) of subdivision (b).

28 (d) Prior to any relocation of condemned row from San Quentin
29 State Prison, whether proposed through legislation or any other
30 means, all maximum security Level IV, 180-degree housing unit
31 facilities with an electrified perimeter shall be evaluated by the
32 Department of Corrections *and Rehabilitation* for suitability for
33 the secure housing and execution of condemned inmates.

34 SEC. 3. Section 3601 of the Penal Code is repealed.

35 ~~3601. Every female person, upon whom has been imposed the~~
36 ~~judgment of death, shall be delivered to the warden of the Central~~
37 ~~California Women's Facility, there to be held pending decision~~
38 ~~upon appeal.~~

39 SEC. 4. Section 3602 of the Penal Code is repealed.

1 ~~3602. Upon the affirmance of her appeal, the female person~~
2 ~~sentenced to death shall thereafter be delivered to the warden of~~
3 ~~the California state prison designated by the department for the~~
4 ~~execution of the death penalty, not earlier than three days before~~
5 ~~the day upon which judgment is to be executed; provided, however,~~
6 ~~that in the event of a commutation of sentence said female prisoner~~
7 ~~shall be returned to the Central California Women's Facility, there~~
8 ~~to be confined pursuant to such commutation.~~

9 SEC. 5. Section 3700.5 of the Penal Code is amended to read:

10 3700.5. Whenever a court makes and causes to be entered an
11 order appointing a day upon which a judgment of death shall be
12 executed upon a defendant, the warden of the state prison to whom
13 such defendant has been delivered for execution ~~or, if the defendant~~
14 ~~is a female, the warden of the Central California Women's Facility,~~
15 shall notify the ~~Director~~ *Secretary of the Department* of Corrections
16 *and Rehabilitation* who shall thereupon select and appoint three
17 alienists, all of whom must be from the medical staffs of the
18 Department of Corrections *and Rehabilitation*, to examine the
19 defendant, under the judgment of death, and investigate his or her
20 sanity. It is the duty of the alienists so selected and appointed to
21 examine such defendant and investigate his or her sanity, and to
22 report their opinions and conclusions thereon, in writing, to the
23 Governor; *and* to the warden of the prison at which the execution
24 is to take place, ~~or, if the defendant is female, the warden of the~~
25 ~~Central California Women's Facility,~~ at least 20 days prior to the
26 day appointed for the execution of the judgment of death upon the
27 defendant. The warden shall furnish a copy of the report to counsel
28 for the defendant upon his or her request.